

EXHIBIT A

Declaration of Brad Marquardt

Brad Marquardt makes the following declaration pursuant to 28 U.S.C. § 1746:

1. My name is Brad Marquardt and I am fully competent to make this declaration. Unless otherwise indicated, the facts are within my personal knowledge.
2. I am currently employed by Texas A&M University as Assistant Athletics Director for Athletics Communications. Beginning in 1990 until 2018, I was an assistant director of A&M's athletics media relation department.
3. In early January 2014, I was cleaning out my paper files and boxing up materials in my office. (My initial recollection was that I was doing this sometime in late December 2013 or early January 2014. A review of my emails at that time suggest that the date was in early January.) I had been using the same desk since 1992, and my habit was to store interesting information by "filing" it in my desk. By 2014, I had an almost unmanageable collection of materials stored in my desk. While going through those materials, I found a copy of an article titled, "E. King Gill: The Life & Legend of Texas A&M's 12th Man." Exhibit A-I to this declaration is a true and correct copy of the document I found in my file. (the "Canning Article")
4. I had no recollection of how the Canning Article came to be in my files or who might have provided it. I assumed it had been in my file for many years: the paper was slightly yellowed and it was dated 1998. A cover sheet for the article stated that the author was Whit Canning, and the copyright was held by "Epic Sports." I recalled that Whit Canning had been a sports writer for the Fort Worth Star Telegram but I had not heard or read anything about him for many years, and had no recollection of meeting or interacting directly with Mr. Canning. I did not recognize the name "Epic Sports" at all.
5. I considered materials like the Canning Article to be helpful research about the 12th Man. Although everyone at Texas A&M knows the origin story behind our 12th Man tradition, the Canning Article provided detailed historical facts, information that I believed might be helpful to me in my job, which was to compile and distribute to the media factual information about A&M's athletics program.
6. I was concerned about the Canning Article disappearing into my desk again. So I asked our department secretary, Jackie Thornton, to type it into a Word document so that I could easily locate specific facts contained in the Article. My interest was not in the 12th Man story itself, but in the detailed historical facts contained within the Canning Article. I believed that having a word-searchable copy of the Canning Article handy would help me to answer any questions that the media might have about the 12th Man tradition. I had no intention of distributing the entire Article to the media or to the public.
7. I had a scanner under my desk in 2014, but my understanding is and was that this was a photographic type scanner that did not produce word-searchable documents.

8. Our department secretary typed the Canning Article into a Word document, and then she emailed that document to me on January 14, 2014. That document sat in my inbox until later in the week, when I learned that Matt Callaway, a colleague in the media relations office, was looking for information about the 12th Man. Without reading the document that our secretary had created, I forwarded it in an email to Matt Callaway. Exhibit A-2 is a true and correct copy of my email to Matt Callaway. The email shows it was sent to Mr. Callaway on Friday afternoon on January 17, 2014. (The email shows I also sent the document to an Athletics Department intern named Benjamin Dierker. I am not aware that Mr. Dierker did anything with that email.)

9. Although I have no specific memory of talking to Mr. Callaway about the Canning Article, I assume that he learned about the Canning Article from me or someone else in our department. Mr. Callaway and I were two of a group of seven employees working in the Athletics Department media relations office with the title of "Information Rep II." Our offices were located near each other, and we all relied on the same department secretary, Jackie Thornton. We all reported to Alan Cannon, whose title was Associate Athletics Director/Media Relations. Mr. Cannon reported to Jason Cook, Senior Associate Athletics Director.

10. Making a copy of articles like the Canning Article to retain and use as a resource when educating the media about A&M's athletics was a common practice in our media relations office. We were also expected to share copies of such information with other information reps in our office to use for the same purpose.

11. I was not asked by anyone whether they could post the entire Canning Article on the department website, or whether they needed permission to use it. I gave no thought to that issue. I was not aware at the time of how Matt Callaway intended to use the information, but I was aware that it was something that our department's senior associate director Jason Cook was working on. Although I do not recall the conversation, I may have informed Mr. Callaway that Whit Canning was the author. It did not occur to me that Mr. Callaway or our boss Jason Cook would use the Canning Article in a way that would violate the law or anyone's statutory rights.

12. My own use of the Canning Article was to keep it as a resource for the historical facts contained in the Article. This was part of my job. I did not make any money or benefit in any way from sharing my copy of the Canning Article with my colleagues. I was not part of the team headed by Jason Cook working on a public relations project involving the 12th Man. At the time I sent the Article to Matt Callaway, I was unaware of the plans being put together by that team to post the Canning Article on the Athletics Department website and link to it as part of a social media campaign. I was also unaware of that members of that team intended to link to the Canning Article in an issue of the electronic newsletter called the *TAMU Times*.

13. Exhibit A-2 includes the Word document that our secretary emailed to me, which I forwarded to Matt Callaway. The Word document does not include any of the information that was on the cover sheet to the paper copy of the Canning Article. I did not realize that information was missing from the Word document I sent to Mr. Callaway. I do not know why

our secretary did not include the cover sheet information in the document that she typed for me. I did not intend for that information to be omitted, and certainly had no intention of omitting any information that would have allowed someone to infringe on any copyright protection or concealed any such infringement.

14. I understand that Matt Callaway sent the Word document with the Canning Article to our web manager, Matt Simon, on Sunday afternoon, January 19, 2014, so it could be posted on the website. Mr. Callaway told Mr. Simon in his cover email that the article was written by Whit Canning in 1998. I do not know how Mr. Callaway knew that information at the time, since it had been inadvertently omitted from the Word document I sent to him. However, I believe that in addition to our department secretary, others in the media relations department may have seen the old paper document I had found with that information on the cover sheet.

15. After the Canning Article was posted, Mr. Bynum contacted our office on January 22, 2014, to say the Canning Article was part of a book he planned to publish in September 2014. Both my supervisor Alan Cannon and I knew Mr. Bynum, and I was tasked with communicating with Mr. Bynum about what happened. I sent an email to Jason Cook asking for guidance and then I emailed Mr. Bynum to apologize and explain what had happened. Mr. Cook was interested in seeing whether Mr. Bynum would allow A&M to use the Canning Article, so I passed on that inquiry to Mr. Bynum. The Canning Article was taken down and I believed Mr. Bynum was satisfied. Attached as Exhibit A-3 is a true and correct copy of my email correspondence with Mr. Bynum.

16. I understand that in his lawsuit against me, Mr. Bynum alleges he had emailed me a copy of his book in June 2010. I have no recollection of seeing that email and no recollection of seeing Mr. Bynum's draft book until after this lawsuit was filed. The Canning Article that my secretary keyed in and that appeared on the Athletics Department website was a copy of Exhibit A-1, the paper article I found in my files.

17. Over the years, Mr. Bynum would request photos and information concerning A&M's football program. I tried to accommodate him by answering his questions when I could do so easily. This sort of cooperation was in addition to my other job responsibilities, and I could only give cursory attention to his requests. I understand that Mr. Bynum claims that I should have noticed that the draft book he emailed to me in June 2010 featured Whit Canning's story about E. King Gill and that I should have noticed that there was a copyright notice for Epic Sports in that draft book. He claims that when I ran across the paper Canning Article in January 2014, I should have known that article was the same story Mr. Bynum planned to use in his draft book. I did not know any of those things in January 2014, and I do not understand why Mr. Bynum believes I should have.

18. Mr. Bynum attached to his First Amended Complaint as exhibit C his email to me in June 2010 (copy attached hereto for convenience as Exhibit A-4). According to his pleadings, the book Mr. Bynum claims he emailed to me was 144 pages long. Whit Canning's name does not appear on the cover. I see from what Mr. Bynum filed in this case that the first 49 pages of his draft book concern the 12th Man tradition, and pages 50 to 142 is a separate section titled "12 to Remember Texas A&M's All-time Greatest Wins." In his email, it appears that Mr. Bynum was asking for help in locating particular photographs for specific pages: Page 91,

102-105, 110-113, 118-123 and 123. That part of the book had nothing to do with E. King Gill. I was not obligated to look at Mr. Bynum's draft book, nor was it my job to find photographs for him. It is highly likely that I would have looked only at the pages he directed me to look at. Those pages had nothing to do with E. King Gill. It is highly likely that I never looked at any other pages in that book. I have no recollection of ever seeing pages 1 - 49 of that draft book.

19. I understand that Mr. Bynum also alleges that he sent an email to me on December 28, 2013, a copy of which is attached as Exhibit D to his First Amended Complaint. A copy of that exhibit is attached here for convenience as Exhibit A-5. Mr. Bynum alleges that this email would have reminded me that he was working on a book about E. King Gill. I see no reason why that email would have informed me that Mr. Bynum was working on a book about E. King Gill. The subject line was "Homer Norton Hired at A&M" and Mr. Bynum asks, "Can you tell me what day in 1934 Homer Norton was hired as the A&M football coach?" Even if I had ever known that Mr. Bynum was interested in doing a book about E. King Gill (and I don't believe I did), that email would not have reminded me of that fact.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 16th day of January, 2025.


Brad Marquardt

EXHIBIT A-1

**E. KING GILL:
THE LIFE & LEGEND OF TEXAS A&M'S 12th MAN**

By Whit Canning

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E. KING GILL: THE LIFE & LEGEND OF TEXAS A&M'S 12TH MAN

In December 1986, as Earle Bruce's Ohio State team prepared for a New Year's Day battle with Texas A&M in the Cotton Bowl, visitors to the Buckeyes' practice sessions noticed something a bit odd.

It seemed to occur especially when there were members of the media present: every time the Buckeyes went through a contact drill, they lined up with 12 men on both sides of the ball.

"Well," Bruce deadpanned, when questioned by reporters, "we're playing Texas A&M aren't we? I've always heard that they play with 12 men.

"And we ain't goin' out there shorthanded."

A publicity stunt, to be sure. But also, a tip of the hat to one of the most unique and enduring legends in the history of college football. And for 75 years the Aggies have believed that every time a ball is teed up on an autumn Saturday, they have an edge.

It is the legacy of Edward King Gill, a onetime A&M football player better suited to basketball -- a sport in which he achieved All-Southwest Conference recognition. Since he was known throughout his life by his middle name, "Edward" was soon shortened to just the initial "E".

Hence the legend of E. King Gill, a youth blessed with marvelous energy of mind, body and spirit -- who in one sense, at least, was destined to become a remarkable failure.

In his senior yearbook at Oak Cliff High School (now Adamson) in Dallas, Gill is described as "a boy who avoids public praise as much as possible, preferring to have his success pass without display."

It is a view of Gill that endured through the 74 years of his life, which ended in December 1976. But given the fact that a statue of him now stands at the north end of Kyle Field and that no student has passed through A&M in three quarters of a century without learning his name, his determination to "avoid public praise" was singularly unsuccessful.

He never led A&M to a national championship, as did John Kimbrough, nor did he win a Heisman Trophy, as did John David Crow. He was never even named all-conference in football, toiling in the shadow of Aggie gridiron stars such as Puny Wilson, Bull Johnson, Sam Sanders and Cap Murrah.

But because of one inspirational act in Dallas on January 2, 1922, he eventually became the most revered Aggie of them all:

The Twelfth Man.

On that day, Gill -- a sophomore sub who had been released from the varsity team in November so he could concentrate on basketball -- sat in the press box spotting for a Waco newspaper while the Aggies struggled against unbeaten Centre College in the Dixie Classic, which was a distant forerunner of the Cotton Bowl game.

As the A&M squad, which totaled 18 at the kickoff, began to dwindle with injuries, a desperate call for help came from the bench. Moments later, dressed in a fallen teammate's uniform, Gill walked from beneath the stands and into the pages of history -- taking his place on the sideline, ready to battle fate for the Aggies.

He stood there all day ... never needed, taking no physical part in A&M's 22-14 upset victory.

Almost apologetically, Gill laughed about it years later, saying, "I really wish I could say I went in and scored the winning touchdown, because it would have made a much better story. But I didn't -- I just stood there."

But as time passed, Gill's act that day grew to the status of legend, and eventually came to symbolize the spirit of the Aggies.

For another 40 years, A&M remained a relatively small, close-knit military school centered on its Corps of Cadets. It became, in time, a place famed for its myriad traditions. The legend of the 12th Man would soon become one of the greatest of all Aggie traditions.

"Probably, along with the annual Aggie Muster, it has become the greatest of all the traditions at A&M," says Harry Green, who graduated in 1952 and later spent 14 years as the director of The Twelfth Man Foundation. "I think it's basically the way all Aggies identify themselves."

By the time Green got to College Station, the Corps had developed the tradition of standing throughout each game, symbolizing each man's willingness to step down out of the stands -- as Gill once had -- and help the team.

"In those days, there were all sorts of things you had to go through when you came in as a freshman," Green says, "including being constantly quizzed on Aggie lore. The 12th Man story was the question you had to be prepared to answer each night if you wanted your dessert."

Although A&M began expanding tremendously in the sixties with the admission of women and non-corps students, the 12th Man legend was so firmly entrenched that it easily survived, and was enthusiastically adopted by all incoming students.

"It has outlived King Gill, and it will outlive us all," Green says. "The 12th Man tradition will never die."

It has survived because it also symbolizes the devotion -- stated often throughout the years -- of one Aggie to another. Arthur Dietrich, a member of the 1921 team, once said that "there was a closeness and a love on that team that is seldom seen, and we dedicated ourselves to that game."

The game (the 1922 Dixie Classic against Centre College) that launched the legend was remarkable in a number of ways, not least of which being the presence of two of the greatest football minds of the collegiate game's early years -- both of whom served, at various times, as savior and foe of the Aggies.

Charley Moran arrived at A&M in 1909 stating, "I did not come here to lose," and proved immediately to be a man of his word. By the end of the season the University of Texas -- which had lost only one of 17 previous meetings with the Aggies -- had been whipped twice.

By 1912, Moran's Aggies had become so formidable that the great state university in Austin refused to schedule them.

Soon thereafter, in gracious tribute to Moran's sportsmanlike qualities, the Longhorns came up with a catchy refrain honoring their esteemed adversary:

*To hell, to hell with Charley Moran,
And all his dirty crew;
And if you don't like the words to this song,
Then to hell, to hell with you.*

In 1914, when administrators of eight universities met to write a charter for the Southwest Conference, UT minions agreed to join on one condition: that Moran be fired and barred from the league. In the interests of progress and regional harmony, A&M reluctantly agreed.

But on the eve of the resumption of the A&M-UT series in 1915, the exiled Moran struck the Longhorns one final blow, in the form of a letter of exhortation to the A&M squad.

"If you still love me and think anything of me," it read, "THEN BEAT TEXAS."

A&M complied with a 13-0 upset of the favored Longhorns and inadvertently launched a Texas tradition in the process. When Aggie pranksters branded the score into the hide of UT's longhorn mascot the following year, the steer's mortified handlers were forced to alter the brand to read, "Bevo."

And so, Texas' mascot became permanently named after a popular brand of beer.

After a two-year drift, the Aggies came up with another winner to coach the A&M football squad: Dana Xenophon Bible.

His first team, in 1917, was not only undefeated, but unscored-on. Then he departed for a year of service in France during World War I.

Bible returned to A&M in 1919, and his second team was both undefeated and unscored-on. In two seasons, his teams had played 18 games, won them all, and outscored their foes, 545-0.

In 1927, Bible had another undefeated team led by All-American Joel Hunt, and won six SWC titles in all before taking the prestigious head coaching job at Nebraska on the personal recommendation of Notre Dame coach Knute Rockne.

Describing his famous coach, Hunt once said, "Mr. Bible did not have to demand respect. You could not keep from respecting him. He was a man who stood above all, and you had to look up to him."

He was also known as a master game day motivator and virtuoso of the Rockne-style, "Win One for the Gipper" halftime performance in the locker room.

Once, at halftime in a climactic battle with the Longhorns, Bible emulated Col. William B. Travis at the Alamo -- drawing a line on the locker room floor and inviting anyone who wished to beat Texas to step across.

All did, of course, and the Aggies won.

On another occasion, after a miserable first-half performance, Bible refused to talk to his team at halftime.

Finally, just before the team went out for the second half, he walked into the room, looked around, and said, "Well girls, shall we go?" Once again, the Aggies won.

But in 1940, when he was coaching an underdog Texas team against an Aggie squad that had not lost in two years, he read the Edgar Guest poem, *It Can Be Done*, to his team, and the Longhorns won, knocking A&M out of the Rose Bowl.

Just as Bible would do years later, Charley Moran came back to face the 1921 Aggies in the guise of a formidable adversary. The place where he had landed -- exiled from the SWC -- was Centre College, a small private school in Danville, Kentucky.

At a distance of 77 years, Centre seems scarcely changed today. Playing at the Division III level, the school carries an enrollment of 950, but there are still thrills.

"I love playing here," says current squad member Todd Frakes. "There isn't much media attention, but we play in eight different states. We just travel constantly, and it's a lot of fun."

The teams from the era of World War I and beyond also traveled constantly, but there was a slight difference: during the period of 1917-24, Moran's "Prayin' Colonels" -- a moniker they picked up after a halftime prayer session during the 1919 West Virginia game -- frequently got bigger headlines than Notre Dame.

In that span, Centre boasted three undefeated teams and posted a total record of 55-8-2. Listed among the victims were Indiana, Clemson, Mississippi, Kentucky, Auburn, Tulane, Tennessee, Alabama and Georgia -- often by margins of six or seven touchdowns.

"Uncle Charley" was at it again, and in 1921 he had perhaps his greatest team. Incredibly, the team boasted three Walter Camp All-Americans: quarterback Alvin (Bo) McMillin, end Red Roberts, and center Red Weaver. McMillin and Roberts were three-time picks. When the Colonels rolled into Dallas amid one of their storied barnstorming tours, they had just flattened Arizona, 38-0, on the West Coast. That brought the season ledger to 10-0, with collective foes having been outscored, 323-6.

But the centerpiece of the campaign had been a midseason visit to Cambridge, Mass., where McMillin -- later a famed coach in both college and pro ranks -- led the Colonels on a date with destiny.

Scoring the game's only touchdown, McMillin, formerly a star at Fort Worth's North Side High School, engineered a stunning 6-0 victory over Harvard that snapped a 25-game winning streak for the hosts. For decades -- on into the fifties -- it was generally regarded as the greatest upset in college football history.

In Gill's recollection, "in our game, Centre was definitely favored -- by a whole lot."

The 1921 A&M team opposing this juggernaut was not one of Bible's strongest -- having compiled a 5-1-2 record with a loss to LSU and ties with Rice and Texas. But it was the SWC champion, and so earned itself a "bowl" trip.

Ominously, it was also a team already severely depleted by injuries -- having lost two fullbacks -- and only 18 players made the trip to Dallas.

The game received an extensive week-long buildup, beginning on Christmas Day, in the local papers. This was due largely to the fact that three Centre players were from Fort Worth and two from Dallas, among seven Texans on the squad.

Ending a storied career as a three-time All-American and already hired as head coach at Centenary College for the next season, McMillin came home to a hero's welcome, capped by a unique twist: in a ceremony on the morning of the game, he married his high school sweetheart, Miss Maud Marie Miers.

Meanwhile, the Aggies dressed for the game at their downtown hotel and prepared to depart for Fair Park Stadium, a mostly wooden 10,000-seat edifice that predated the Cotton Bowl.

Gill was among them, although he was in street clothes -- and, as he recalled it years later, was about the last person in Dallas figuring on taking an active role in the afternoon's contest.

"Throughout high school and college, I always played three sports -- football, basketball and baseball," he said. "But my favorite of the three was always basketball, because that's what I seemed best at.

"Although I was on the football team in 1921, I was only a substitute. But I was in line for a regular spot on the basketball team, and the coaches figured I should give it my full attention. So they released me from the team at Thanksgiving, and I concentrated on basketball.

"When the team went up to play Centre, I just went up there like all the other students. I wanted to see the game, and since I lived in Dallas, it also gave me a chance to go home for a visit."

What brought Gill to the hotel on the day of the game was not the idea of playing in it, but simply the thought of being able to get inside the stadium to watch it.

"There were no dressing rooms at the stadium," Gill recalled, "so the team put on their uniforms at the hotel and gathered in the lobby to take cabs to the game. I wanted to go with them because it was a good way to get into the stadium, and I didn't have the \$3 admission price. So I rode in one of the cabs.

"I was standing down on the field talking to Coach Bible before the game, when Jinx Tucker came by. He was the sports editor at the Waco paper and I knew him casually, and he said, 'Hey King, why don't you come up to the press box and spot for me?'

"So I wished Coach Bible luck and told him I'd be up there if he needed me, and I went upstairs with Jinx."

At the time, it was an offhand remark, and Gill had no idea he would actually be needed. That situation changed rapidly, however.

"The trouble started right after the game got underway," Gill said. "We were already missing a kid named (F.K.) Buckner, who had been our fullback but had a bad leg. And pretty soon, we lost so many more players it began to look like we wouldn't be able to finish the game.

"Sammy Sanders was the first to go. They knocked him cold.

"Heine Weir, our team captain and other halfback, was next. He went out with a broken leg. Then we lost our fullback, Bull Johnson, and then our quarterback, Bugs

Morris. A halfback named (T.L.) Miller was also injured, so within a short space of time, our whole offensive backfield plus one substitute had gone out of the game.

"I looked down at the field, and old D.X. was waving at the press box and motioning toward our empty bench. He knew I was up there, because he had seen me leave with Jinx. And I knew what he wanted."

Just to make sure, Bible dispatched an A&M yell leader to the press box, and Gill was soon on his way down to the field.

"Since there were no dressing rooms, I changed clothes under the stands," Gill said. "They gave my clothes to Weir, and I put on his uniform.

"And D.X. was standing there, and he said, 'Boy, it doesn't look like I'm going to have enough players to finish the game. You may have to go in there and just stand around for awhile.'

"But as it turned out, I wasn't needed. All our boys managed to survive from that point forward."

In fact, the Aggies managed a bit more than mere survival. They took a quick 2-0 lead when one of the visitors was tackled in the end zone trying to return a punt, then blunted two Centre drives inside their five-yard line. On one of these, they stopped McMillin on fourth down -- inches from the goal line.

The Prayin' Colonels finally launched a drive to take a 7-2 lead, but A&M turned three breaks into quick scores in the second half and held a commanding 22-7 advantage in the fourth quarter. Centre scored once more, but the day belonged to the Aggies.

Gill was certainly not the star of the game, but as the years rolled by, he became its most commanding presence. Ironically, it served to overshadow a distinguished career at A&M in which he won eight varsity letters in three sports.

In the final game of the 1922 season, Gill scored once and set up the other touchdown with a long run to lead the Aggies past the hated Longhorns, 14-7.

The game became etched in the collective memory because it would be A&M's last victory in Austin for 34 years -- until the unbeaten 1956 powerhouse whipped a 1-9 Texas team (after which the Longhorns, in despair, took a gamble on a young coach named Darrell Royal) -- but Gill's heroics were forgotten.

It also went largely forgotten that Gill was a star guard on two conference championship basketball teams.

He graduated from A&M in 1924 with a degree in engineering, coached for a year at Greenville High, then entered the Baylor School of Medicine.

Graduating in 1929, he set up a practice as an eye, ear, nose and throat doctor in San Antonio. In 1935 he moved his practice to Corpus Christi.

For many years, he never gave much thought of the incident that would one day transform him into a legendary, almost mythic figure to thousands of Aggies.

"I think the Fort Worth paper mentioned it at the time," he said, "but I really never heard any more about it for about 15 years afterward.

"The story of the 12th Man really originated around 1939-40, when A&M had its national championship team and there was a lot of interest. I think it first resurfaced when a guy named E.E. McQuillen dramatized the incident on a radio broadcast."

In 1941, an Aggie supporter named Lillian Dean Hamilton Munnerlyn, known as "Nanny Munn," wrote a song entitled *The Twelfth Man*. The song created its own tradition: it was sung at post-game yell practices -- but only when the Aggies had lost:

*Texas Aggies down in Aggieland,
We've got Aggie spirit to a man.
Stand united! That's the Aggie theme,
We're the 12th man on the team.*

*When we're down, the goin's rough and tough,
We just grin and yell we've got the stuff
To fight together for the Aggie dream,
We're the 12th man on that fightin' Aggie team.*

But the tradition had surfaced as early as 1930, when A&M coach Matty Bell called on the student body to give him a "Twelfth Man" center. He was rewarded with Joe Love, a gritty 5-foot-9, 155-pound center who lettered for two years.

In 1943, when every veteran on the team had gone off to war, Aggie coach Homer Norton placed a notice in the student newspaper asking for volunteers. He held his first team meeting a few days later, surrounded by 135 warm bodies.

But it remained for Jackie Sherrill to elevate the 12th Man tradition to the status of national phenomenon ... an idea that became a publicity bonanza and gave its name to a rising dynasty.

When Sherrill announced that his home kickoff unit for 1983 would consist of a kicker and 10 student volunteers, he was greeted by a turnout that would have amazed Homer Norton -- 250 men and two women.

When the unit was finally pared down, one of its members, Corps of Cadets member Les Asel, spoke eloquently for the group.

"I never wanted to play college ball, because I figured high school was enough," he said. "But when this happened, I got fired up about it.

"When we take the field in the opener against California (in 1983), they're in for a surprise. They've never faced a bunch of crazy, insane Aggies screaming down the field before. After all, a guy's got to be a little bit crazy to come here and wear this uniform and be an Aggie in the first place.

"We're just trying to help the football team. People say it's a publicity stunt, but so what? We're serious about this.

"What you have to understand is, I'm married to Texas A&M. This is part of the Aggie spirit, and I've always wanted to be an Aggie."

The original unit, in '83, held foes to an average of 13.1 yards per return, and successive towel-waving units vexed not only Bruce's Buckeyes but Heisman Trophy winners Bo Jackson of Auburn and Tim Brown of Notre Dame in the Cotton Bowl.

R.C. Slocum cut the unit down to one representative -- wearing No. 12 -- in 1991, saying, "What E. King Gill did in 1922, he did alone -- he didn't have nine other guys with him."

The effectiveness of the unit had decreased by then, but football fans from New York to California had learned the significance of the 12th Man.

By the time Sherrill created his version, the man who inspired the legend was dead.

After a lifetime of community service, he passed his medical practice on to a friend and retired in 1972, at the age of 70. He had been slowed by a heart attack five years earlier, and a hunting accident in 1970 in which he lost part of a finger hampered his capacity to perform surgery.

Also in 1970, he and his wife, Myrtle, had moved to nearby Rockport after Hurricane Celia extensively damaged their Corpus Christi home. By then, they also owned a 300-acre ranch near San Antonio.

He died in December 1976, and was buried in San Antonio.

To the end of his days, the description in his high school yearbook held true. If any man ever believed himself a legend, it wasn't King Gill.

Olive DeLucia, who arranges travel excursions for former students out of her office on campus, recalls taking the Gills on an Aggie junket to Hawaii.

"We all had a grand time," she says, "but if you were just one of the people on that trip, you would never have imagined that he (Gill) was the famous 12th Man. He was such a nice man, quiet and unassuming, and a gentleman.

"His wife was the expressive one ... she could do that thing where you put two fingers to your mouth and whistle, and I remember thinking what a contrast it was between them."

But if there was ever a doubt that Gill was an Aggie legend, it was dispelled in 1980, when the statue was placed prominently in front of The 12th Man Foundation office near the stadium.

For all the Joel Hunts, Dick Todds and Joe Routts and John Kimbroughs and Martin Rubys and John David Crows and Jack Pardees that led the Aggies to glory, the only man they ever cast in bronze was E. King Gill.

"It's a tradition that every Aggie can identify with," says A&M historian Jerry Cooper. "Through the years, there have been many attempts to more or less copy it, including the thing with Army and Navy where they stand throughout a game. But in their case, it isn't based on anything.

"People are still making attempts to co-opt it in various ways: there was a recent article in the school paper about Texas and Baylor developing special 'tradition' rings.

"But you don't just invent a tradition. Ours is based on a real event that actually happened once. It's history, and it's real. And for every Aggie, it says, 'I'm somebody special.'"

Meanwhile, the beat goes on. What E. King Gill started in 1922 has produced a massive fund-raising organization (The 12th Man Foundation), a campus statue that students born after his death stare at in admiration, and a tradition wherein thousands of Aggies stand at the ready throughout a game, although in the modern context the thought that any of them might actually be called down to the field is absurd.

Whereas Gill once stood, clutching his misshapen leather helmet and wondering if there would be enough Aggies left to finish the game, there is now a donor wall built for \$150,000 with the aim of raising \$5.4 million and endowing every position on the varsity football team; or, financing the team itself.

The area is called The 12th Man Plaza.

And there are still attempts to identify with Gill's legacy: Emmitt Smith once implored the Dallas Cowboys and their fans to develop a "12th Man atmosphere," and Troy Aikman envisioned towel-waving fans "blowing off the roof (what there is of it) at Texas Stadium."

The 12th Man has been compared to Biblical heroes and legends of the Old West, and provided the title for a 1974 book on the Aggies' football history.

But A&M is a place where traditions are like sunsets; you see one every day, from the story of the famous War Hymn being composed by a lonely soldier (Pinky Wilson) standing watch on the Rhine during World War I to the sacred turf of Kyle Field, dedicated to the Aggies who died during World War II.

But while many can equate the 12th Man tradition to the Muster (held annually on San Jacinto Day), in the opinion of the man responsible for one of them, there was never a comparison.

To Gill, the Muster was the most sacred of Aggie traditions. And having served as an officer in the Pacific in World War II, he was acutely aware of the most famous Muster of them all: held by Aggies on the doomed island fortress of Corregidor just before it fell to the Japanese in 1942.

He visited the site when the Phillipines were retaken, and when he was asked to give an address at a Muster years later, he considered it a great honor.

He recalled being in an assault wave on a Pacific island and shortly discovering a notice on a bulletin board announcing "a meeting of A&M men in tent 402 at 7 p.m. tonight."

“An officer standing near me said, ‘You Aggies beat anything I’ve ever seen. We can establish a beachhead on one of these islands, and in a short time there will be a sign stuck in the sand saying there will be an A&M meeting tonight.’

“I think this probably demonstrates what other people think of Aggies. They may not particularly like us, but they respect us.”

And of all the written and spoken accounts of the events of January 2, 1922, probably the most eloquent description of his actions was delivered, on this occasion, by the 12th Man himself.

“For one thing,” he said, “it has made me feel humble and proud to think that I might represent the finest body of young men in the U.S.

“Any one of them could be the 12th Man, but he must be ready to stand and fight for the things that are right and the traditions of this country and this school.

“It has made me a better man and a better doctor, and last but not least, a more responsible citizen. It has, on the lighter side, made me the prime target for the many Aggie jokes that come along.

“It is my sincere hope that there will always be the Muster, and there will always be a Cadet Corps at A&M. Without it, there will be no A&M, for within it are found many of our most precious and hallowed traditions.

“As we reach into the future, it is well that we remember the past.”

EXHIBIT A-2

From: Brad Marquardt <bmarquardt@athletics.tamu.edu>
Sent: 1/17/2014 7:53:44 PM +0000 1:53 PM
To: Benjamin Dierker (benjamindierker@gmail.com); Matthew Callaway
<mcallaway@athletics.tamu.edu>
Subject: FW: E. King Gill
Attachments: E. King Gill.docx

From: Jackie Thornton
Sent: Tuesday, January 14, 2014 4:25 PM
To: Brad Marquardt
Subject: E. King Gill

Here you go Marquardt!

Jacqueline Thornton
Sports Media Relations
979-845-5725

"The past is behind, learn from it. The future is ahead, prepare for it. The present is here, live it."

— Thomas S. Monson

E. KING GILL: THE LIFE & LEGEND OF TEXAS A&M'S 12TH MAN

In December 1986, as Earle Bruce's Ohio State team prepared for a New Year's Day battle with Texas A&M in the Cotton Bowl, visitors to the Buckeye's practice sessions noticed something a bit odd.

It seemed to occur especially when there were members of the media present: every time the Buckeyes went through a contact drill, they lined up with 12 men on both sides of the ball.

"Well," Bruce deadpanned, when questioned by reporters, "we're playing Texas A&M aren't we? I've always heard that they play with 12 men and we ain't goin' out there shorthanded."

A publicity stunt, to be sure. But also, a tip of the hat to one of the most unique and enduring legends in the history of college football and for 75 years the Aggies have believed that every time a ball is teed up on an autumn Saturday, they have an edge.

It is the legacy of Edward King Gill, a onetime A&M football player better suited to basketball – a sport in which he achieved All-Southwest Conference recognition. Since he was known throughout his life by his middle name, "Edward" was soon shortened to just the initial "E".

Hence the legend of E. King Gill, a youth blessed with marvelous energy of mind, body and spirit—who in one sense, at least, was destined to become a remarkable failure.

In his senior yearbook at Oak Cliff High School (now Adamson) in Dallas, Gill is described as "boy who avoids public praise as much as possible, preferring to have his success pass without display."

It is a view of Gill that endured through the 74 years of his life, which ended in December 1976. But given the fact that a statue of him now stands at the north end of Kyle Field and that no student has passed through A&M in three quarters of a century without learning his name, his determination to "avoid public praise" was singularly unsuccessful.

He never led A&M to a national championship, as did John Kimbrough, nor did he win a Heisman Trophy, as did John David Crow. He was never even named all-conference in football, toiling in the shadow of Aggie gridiron stars such as Puny Wilson, Bull Johnson, Sam Sanders and Cap Murrah.

But because of one inspirational act in Dallas on January 2, 1922, he eventually became the most revered Aggie of them all: The Twelfth Man.

On that day, Gill – a sophomore sub who had been released from the varsity team in November so he could concentrate on basketball – sat in the press box spotting for a Waco newspaper while the Aggies struggled against unbeaten Centre College in the Dixie Classic, which was a distant forerunner of the Cotton Bowl game.

As the A&M squad, which totaled 18 at the kickoff, began to dwindle with injuries a desperate call for help came from the bench. Moments later, dressed in a fallen teammate's uniform, Gill walked from beneath the stands and into the pages of history – taking his place on the sideline, ready to battle fate for the Aggies.

He stood there all day... never needed, taking no physical part in A&M's 22-14 upset victory.

Almost apologetically, Gill laughed about it years later, saying, "I really wish I could say I went in and scored the winning touchdown, because it would have made a much better story. But I didn't, I just stood there."

But as time passed, Gill's act that day grew to the status of legend, and eventually came to symbolize the spirit of the Aggies.

For another 40 years, A&M remained a relatively small, close-knit military school centered on its Corps of Cadets. It became, in time, a place famed for its myriad traditions. The legend of the 12th Man would soon become one of the greatest of all Aggie traditions.

"Probably, along with the annual Aggie Muster, it has become the greatest of all the traditions at A&M," says Harry Green, who graduated in 1952 and later spent 14 years as the director of the Twelfth Man Foundation. "I think it's basically the way all Aggies identify themselves."

By the time Green got to College Station, the Corps had developed the tradition of standing throughout each game, symbolizing each man's willingness to step down out of the stands – as Gill once had – and help the team.

"In those days, there were all sorts of things you had to go through when you came in as a freshman," Green says, "including being constantly quizzed on Aggie lore. The 12th Man story was the question you had to be prepared to answer each night if you wanted your dessert."

Although A&M began expanding tremendously in the sixties with the admission of women and non-corps students, the 12th Man legend was so firmly entrenched that it easily survived, and was enthusiastically adopted by all incoming students.

"It has outlived E. King Gill, and it will outlive us all" Green says. "The 12th Man tradition will never die."

It has survived because it also symbolizes the devotion – stated often throughout the years – of one Aggie to another. Arthur Dietrich, a member of the 1921 team, once said that "there was a closeness and a love on that team that is seldom seen, and we dedicated ourselves to that game."

The game (the 1922 Dixie Classic against Centre College) that launched the legend was remarkable in a number of ways, not least of which being the presence of two of the greatest football minds of the collegiate game's early years – both of whom served, at various times, as savior and foe of the Aggies.

Charley Moran arrived at A&M in 1909 stating, "I did not come here to lose," and proved immediately to be a man of his word. By the end of the season the University of Texas - which had lost only one of 17 previous meetings with the Aggies – had been whipped twice.

By 1912, Moran's Aggies had become so formidable that the great state university in Austin refused to schedule them.

Soon thereafter, in gracious tribute to Moran's sportsmanlike qualities, the Longhorns came up with a catchy refrain honoring their esteemed adversary:

*To hell, to hell with Charley Moran,
And all his dirty crew;
And if you don't like the words to this song,
Then to hell, to hell with you.*

In 1914, when administrators of eight universities met to write a charter for the Southwest Conference, UT minions agreed to join on one condition: that Moran be fired and barred from the league. In the interests of progress and regional harmony, A&M reluctantly agreed.

But on the eve of the resumption of the A&M-UT series in 1915, the exiled Moran struck the Longhorns one final blow, in the form of a letter of exhortation to the A&M squad.

"If you still love me and think anything of me," it read, "THEN BEAT TEXAS."

A&M complied with a 13-0 upset of the favored Longhorns and inadvertently launched a Texas tradition in the process. When Aggies pranksters branded the score into the hide of UT's longhorn mascot the following year, the steer's mortified handlers were forced to alter the brand to read, "Bevo."

And so, Texas' mascot became permanently named after a popular brand of beer. After a two-year drift, the Aggies came up with another winner to coach the A&M football squad: Dana Xenophon Bible.

His first team, in 1917, was not only undefeated, but unscored- on. Then he departed for a year of service in France during World War I.

Bible returned to A&M in 1919, and his second team was both undefeated and unscored- on. In two seasons, his teams had played 18 games, won them all, and outscored their foes, 545-0.

In 1927, Bible had another undefeated team led by All-American Joel Hunt, and won six SWC titles in all before taking the prestigious head coaching job at Nebraska on the personal recommendation of Notre Dame coach Knute Rockne.

Describing his famous coach, Hunt once said, "Mr Bible did not have to demand respect. You could not keep from respecting him. He was a man who stood above all, and you had to look up to him."

He was also known as a master game day motivator and virtuoso of the Rocknestyle, "Win One for the Gipper" halftime performance in the locker room.

Once, at halftime in a climactic battle with the Longhorns, Bible emulated Col. William B. Travis at the Alamo - drawing a line on the locker room floor and inviting anyone who wished to beat Texas to step across.

All did, of course, and the Aggies won.

On another occasion, after a miserable first-half performance, Bible refused to talk to his team at halftime.

Finally, just before the team went out for the second half, he walked into the room, looked around, and said, "Well girls, shall we go?" Once again, the Aggies won.

But in 1940, when he was coaching and underdog Texas team against an Aggie squad that had not lost in two years, he read the Edgar Guest poem, *It Can Be Done*, to his team, and the Longhorns won, knocking A&M out of the Rose Bowl.

Just as Bible would do years later, Charley Moran came back to face the 1921 Aggies in the guise of a formidable adversary. The place where he had landed - exiled from the SWC - was Centre College, a small private school in Danville, Kentucky.

At a distance of 77 years, Centre seems scarcely changed today. Playing at the Division III level, the school carries an enrollment of 950, but there are still thrills.

"I love playing here," says current squad member Todd Frakes. "There isn't much media attention, but we play in eight different states. We just travel constantly, and it's a lot of fun."

The teams from the era of World War I and beyond also traveled constantly, but there was a slight difference: during the period of 1917-24, Moran's "Prayin' Colonels" - a moniker they picked up after a halftime prayer session during the 1919 West Virginia game - frequently got bigger headlines than Notre Dame.

In the span, Centre boasted three undefeated teams and posted a total record of 55-8-2. Listed among the victims were Indiana, Clemson, Mississippi, Kentucky, Auburn, Tulane, Tennessee, Alabama, and Georgia – often by margins of six or seven touchdowns.

“Uncle Charley” was at it again, and in 1921 he had perhaps his greatest team. Incredibly, the team boasted three Walter Camp All-Americans: quarterback Alvin (Bo) McMillin, end Red Roberts, and center Red Weaver. McMillin and Roberts were three-time picks. When the Colonels rolled into Dallas amid one of their storied barnstorming tours, they had just flattened Arizona, 38-0, on the West Coast. That brought the season ledger to 10-0, with collective foes having been outscored, 323-6.

But the centerpiece of the campaign had been midseason visit to Cambridge, Mass., where McMillin – later a famed coach in both college and pro ranks – led the Colonels on a date with destiny.

Scoring the game’s only touchdown McMillin, formerly a star at Fort Worth’s North Side High School, engineered a stunning 6-0 victory over Harvard that snapped a 25-game winning streak for the hosts. For decades – on into the fifties – it was generally regarded as the greatest upset in college football history.

In Gill’s recollection, “in our game, Centre was definitely favored – by a whole lot.”

The 1921 A&M team opposing this juggernaut was not one of Bible’s strongest – having compiled 5-1-2 record with a loss to LSU and ties with Rice and Texas. But it was the SWC champion, and so earned itself a “bowl” trip.

Ominously, it was also a team already severely depleted by injuries – having lost two fullbacks – and only 18 players made the trip to Dallas.

The game received an extensive week-long buildup, beginning on Christmas Day, in the local paper. This was due largely to the fact that three Centre players were from Fort Worth and two from Dallas, among seven Texans on the squad.

Ending a storied career as a three-time All-American and already hired as head coach at Centenary College for the next season, McMillin came home to a hero’s welcome, capped by a unique twist: in a ceremony on the morning of the game, he married his high school sweetheart, Miss Maud Marie Miers.

Meanwhile, the Aggies dressed for the game at their downtown hotel and prepared to depart for Fair Park Stadium, a mostly wooded 10,000-seat edifice that predated the Cotton Bowl.

Gill was among them, although he was in street clothes – and, as he recalled it years later, was about the last person in Dallas figuring on taking an active role in the afternoon’s contest.

“Throughout high school and college, I always played three sports – football, basketball and baseball,” he said. “But my favorite of the three was always basketball, because that’s what I seemed best at.

“Although I was on the football team in 1921, I was only a substitute. But I was in line for a regular spot on the basketball team, and the coaches figured I should give it my full attention. So they released me from the team at Thanksgiving, and I concentrated on basketball.

“When the team went up to play Centre, I just went up there like all the other students. I wanted to see the game, and since I lived in Dallas, it also gave me a chance to go home for a visit.”

What brought Gill to the hotel on the day of the game was not the idea of playing in it, but simply the thought of being able to get inside the stadium to watch it.

"There were no dressing rooms at the stadium," Gill recalled, "so the team put on their uniforms at the hotel and gathered in the lobby to take cabs to the game. I wanted to go with them because it was a good way to get into the stadium, and I didn't have the \$3 admission price. So I rode in one of the cabs.

"I was standing down on the field talking to Coach Bible before the game, when Jinx Tucker came by. He was the sports editor at the Waco paper and I knew him casually, and he said, 'Hey King, why don't you come up to the press box and spot for me?'

"So I wished Coach Bible luck and told him I'd be up there if he needed me, and I went upstairs with Jinx."

At the time, it was an offhand remark, and Gill had no idea he would actually be needed. That situation changed rapidly, however.

"The trouble started right after the game got underway," Gill said, "We were already missing a kid named (F.K.) Buckner, who had been our fullback but had a bad leg. And pretty soon, we lost so many more players it began to look like we wouldn't be able to finish the game.

"Sammy Sanders was the first to go. They knocked him cold.

"Heine Weir, our team captain and other halfback, was next. He went out with a broken leg. Then we lost our fullback, Bull Johnson, and then our quarterback, Bugs Morris. A halfback named (T.L.) Miller was also injured, so within a short space of time, our whole offensive backfield plus one substitute had gone out of the game.

"I looked down at the field, and old D.X. was waving at the press box and motioning toward our empty bench. He knew I was up there, because he had seen me leave with Jinx. And I knew what he wanted,"

Just to make sure, Bible dispatched an A&M yell leader to the press box, and Gill was soon on his way down to the field.

"Since there were no dressing rooms, I changed clothes under the stands," Gill said, "They gave my clothes to Weir, and I put on his uniform.

"And D.X. was standing there, and he said, 'Boy, it doesn't look like I'm going to have enough players to finish the game. You may have to go in there and just stand around for awhile.'

"But as it turned out, I wasn't needed. All our boys managed to survive from that point forward."

In fact, the Aggies managed a bit more than mere survival. They took a quick 2-0 lead when one of the visitors was tackled in the end zone trying to return a punt, then blunted two Centre drives inside their five-yard line. On one of these, they stopped McMillin on fourth down – inches from the goal line.

The Prayin' Colonels finally launched a drive to take a 7-2 lead, but A&M turned three breaks into quick scores in the second half and held a commanding 22-7 advantage in the fourth quarter. Centre scored once more, but the day belonged to the Aggies.

Gill was certainly not the star of the game, but as the years rolled by, he became its most commanding presence. Ironically, it served to overshadow a distinguished career at A&M in which he won eight varsity letters in three sports.

In the final game of the 1922 season, Gill scored once and set up the other touchdown with along run to lead the Aggies past the hated Longhorns, 14-7.

The game became etched in the collective memory because it would be A&M's last victory in Austin for 34 years – until the unbeaten 1956 powerhouse whipped a 1-9 Texas team

(after which the Longhorns, in despair, took a gamble on a young coach named Darrell Royal) – but Gill’s heroics were forgotten.

It also went largely forgotten that Gill was a star guard on two conference championship basketball teams.

He graduated from A&M in 1924 with a degree in engineering, coached for a year at Greenville High, then entered the Baylor School of Medicine.

Graduating in 1929, he set up a practice as an eye, ear, nose and throat doctor in San Antonio. In 1935 he moved his practice to Corpus Christi.

For many years, he never gave much thought of the incident that would one day transform him into a legendary, almost mythic figure to thousands of Aggies.

“I think the Fort Worth paper mentioned it at the time,” he said, “but I really never heard any more about it for about 15 years afterward.

“The story of the 12th Man really originated around 1939-40 when A&M had its national championship team and there was a lot of interest. I think it first resurfaced when a guy named E. E. McQuillen dramatized the incident on a radio broadcast.”

In 1941, an Aggie supporter named Lillian Dean Hamilton Munnerlyn, known as “Nanny Munn,” wrote a song entitled The Twelfth Man. The song created its own tradition: it was sung as post-game yell practices – but only when the Aggies had lost:

*Texas Aggies down in Aggieland,
We've got Aggie spirit to a man.
Stand united! That's the Aggie theme,
We're the 12th an on the team.
When we're down, the goin's rough and tough,
We just grin and yell we've got the stuff
To fight together for the Aggie dream,
We're the 12th man on that fightin' Aggie team*

But the tradition had surfaced as early at 1930, when A&M coach Matty Bell called on the student body to give him a “Twelfth Man” center. He was rewarded with Joe Love, a gritty 5-foot-9, 155-pound center who lettered for two years.

In 1943, when every veteran on the team had gone off to war, Aggie coach Homer Norton placed a notice in the student newspaper asking for volunteers. He held his first team meeting a few days later, surrounded by 135 warm bodies.

But it remained for Jackie Sherrill to elevate the 12th Man tradition to the status of national phenomenon ... an idea that became a publicity bonanza and gave its name to a rising dynasty.

When Sherrill announced that his home kickoff unit for 1983 would consist of a kicker and 10 student volunteers, he was greeted by a turnout that would have amazed Homer Norton – 250 men and two women.

When the unit was finally pared down, one of its member, Corps of Cadets member Les Asel, spoke eloquently for the group.

“I never wanted to play college ball, because I figured high school was enough,” he said. “But when this happened, I got fired up about it.

“When we take the field in the opener against California (in 1983), they’re in for a surprise. They’ve never faced a bunch of crazy, insane Aggies screaming down the field before. After all, a guy’s got to be a little bit crazy to come here and wear this uniform and be an Aggie in the first place.

“We’re just trying to help the football team. People say it’s a publicity stunt, but so what? We’re serious about this.

“What you have to understand is, I’m married to Texas A&M. This is part of the Aggie spirit, and I’ve always wanted to be an Aggie.”

The original unit, in ’83, held foes to an average of 13.1 yards per return, and successive towel-waving units vexed not only Bruce’s Buckeyes but Heisman Trophy winners Bo Jackson of Auburn and Tim Brown of Notre Dame in the Cotton Bowl.

R.C. Slocum cut the unit down to one representative – wearing No. 12 – in 1991, saying, “What E. King Gill did in 1922, he did alone – he didn’t have nine other guys with him.”

The effectiveness of the unit had decreased by then, but football fans from New York to California had learned the significance of the 12th Man.

By the time Sherrill created his version, the man who inspired the legend was dead.

After a lifetime of community service, he passed his medical practice on to a friend and retired in 1972, at the age of 70. He had been slowed by a heart attack five years earlier, and a hunting accident in 1970 in which he lost part of a finger hampered his capacity to perform surgery.

Also in 1970, he and his wife, Myrtle, had moved to nearby Rockport after Hurricane Celia extensively damaged their Corpus Christi home. By then, they also owned a 300-acre ranch near San Antonio.

He died in December 1976, and was buried in San Antonio.

To the end of his days, the description in his high school yearbook held true. If any man ever believed himself a legend, it wasn’t King Gill.

Olive DeLucia, who arranges travel excursions for former students out of her office on campus, recalls taking the Gills on an Aggie junket to Hawaii.

“We all had a grand time,” she says, “but if you were just one of the people on that trip, you would never have imagined that he (Gill) was the famous 12th Man. He was such a nice man, quiet and unassuming, and a gentleman.

“His wife was the expressive one ... she could do that thing where you put two fingers to your mouth and whistle, and I remember thinking what a contrast it was between them.”

But if there was ever a doubt that Gill was an Aggie legend, it was dispelled in 1980, when the statue was placed prominently in front of the 12th Man Foundation office near the stadium.

For all the Joel Hunts, Dick Todds, and Joe Routts and John Kimbroughs and Martin Rubys and John David Crows and Jack Pardees that led the Aggies to glory, the only man they ever cast in bronze was E. King Gill.

“It’s a tradition that every Aggie can identify with,” says A&M historian Jerry Cooper. “Through the years, there have been many attempts to more or less copy it, including the thing with Army and Navy where they stand throughout a game. But in their case, it isn’t based on anything.

“People are still making attempts to co-opt it in various ways: there was a recent article in the school paper about Baylor developing special ‘tradition’ rings.

"But you don't just invent a tradition. Ours is based on a real event that actually happened once. It's history, and it's real. And for every Aggie, it says, 'I'm somebody special.'"

Meanwhile, the beat goes on. What E King Gill started in 1922 has produced a massive fund-raising organization (The 12th Man Foundation), a campus statue that students born after his death stare at in admiration, and a tradition wherein thousands of Aggies stand at the ready throughout a game, although in the modern context the thought that any of them might actually be called down to the field is absurd.

Whereas Gill once stood, clutching his misshapen leather helmet and wondering if there would be enough Aggies left to develop a "12th Man atmosphere," and Troy Aikman envisioned towel-waving fans "blowing off the roof (what there is of it) a Texas Stadium."

The 12th Man has been compared to Biblical heroes and legends of the Old West, and provided the title for a 1974 book on the Aggies' football history.

But A&M is a place where traditions are like sunsets; you see one every day, from the story of the famous War Hymn being composed by a lonely soldier (Pinky Wilson) standing watch on the Rhine during World War I to the sacred turf of Kyle Field, dedicated to the Aggies who died during World War II.

But while many can equate the 12th Man tradition to the Muster (held annually on San Jacinto Day), in the opinion of the man responsible for one of them, there was never a comparison.

To Gill, the Muster was the most sacred of Aggie traditions. And having served as an officer in the Pacific in World War II, he was acutely aware of the most famous Muster of them all: held by Aggies on the doomed island fortress of Corregidor just before it fell to the Japanese in 1942.

He visited the site when the Phillipines were retaken, and when he was asked to give an address at a Muster years later, he considered it a great honor.

He recalled being in an assault wave on a Pacific island and shortly discovering a notice on a bulletin board announcing "a meeting of A&M men in tent 402 at 7 p.m. tonight."

"As officer standing near me said, 'You Aggies beat anything I've ever seen. We can establish a beachhead on one of these islands, and in a short time there will be a sign stuck in the sand saying there will be an A&M meeting tonight.'

"I think this probably demonstrates what other people think of Aggies. They may not particularly like us, but they respect us."

And of all the written and spoken accounts of the events of January 2, 1922, probably the most eloquent description of his actions was delivered, on this occasion, by the 12th Man himself.

"For one things," he said, "it has made me feel humble and proud to think that I might represent the finest body of young men in the U.S.

"Any one of them could be the 12th Man, but he must be ready to stand and fight for the things that are right and the traditions of this country and this school.

"It has made me a better man and a better doctor, and last but not least, a more responsible citizen. It has, on the lighter side, made me the prime target for the many Aggie jokes that come along.

"It is my sincere hope that there will always be the Muster, and there will always be a Cadet Corps at A&M. Without it, there will be no A&M, for within it are found many of our most precious and hallowed tradition.

"As we reach into the future, it is well that we remember the past."

EXHIBIT A-3

From: bmarquardt@athletics.tamu.edu
To: mjbsports@hotmail.com
Subject: RE: E. King Gill Story on TAMU Times
Date: Wed, 22 Jan 2014 18:19:26 +0000

Let me know about the excerpt...we're keen to have access to Whit's story and I'm thinking it might be good pub for your book. It might create a little buzz for the book.

From: Michael Bynum [<mailto:mjbsports@hotmail.com>]
Sent: Wednesday, January 22, 2014 11:16 AM
To: Brad Marquardt
Cc: Alan Cannon
Subject: E. King Gill Story on TAMU Times

Hi Brad,

TAMU Times has taken this off their website. Thanks!

I will be finished with the design of this book in February. It has taken a long time to get this overall story right -- but I feel good about where we are now.

Once the book is finished I will come to College Station and we can make plans. I am willing to work with you on the use of this story on the A&M website, but we need to finalize some details. For example, the draft you have is not the final version to be published.

Mike

From: bmarquardt@athletics.tamu.edu
To: mjbsports@hotmail.com
CC: acannon@athletics.tamu.edu
Subject: RE: E. King Gill Story on TAMU Times
Date: Wed, 22 Jan 2014 16:41:03 +0000
Good morning Mike,

First of all, my sincere apology for this mix-up. The story is no longer linked on our website.

EXHIBIT A-3

We remain very interested in utilizing Whit's story, however. With the Seattle Seahawks and their 12th Man getting a lot of attention in the NFL, the story was an important part of our strategic plan to show Texas A&M is the true owner of the "12th Man."

To that end, would it be possible to post the story as an "excerpt" to your book?

"This is an excerpt to an upcoming book titled *E. King Gill: The Life & Legend of Texas A&M's 12th Man*. It will be published in September of 2014 to honor the 75th anniversary of Texas A&M's 1939 national championship season by Epic Sports." (Or something similar...)

Again, my sincere apologies for this. It was an incredibly coincidental mix-up on my part. I was cleaning my office, which you may recall is generally a cluttered mess. While going through files, I found a story of the 12th Man on some slightly yellowed 8.5x11 paper. I had no recollection of its origin. But I'm always seeking background info on the 12th Man, especially since we joined the SEC and reporters aren't as familiar with the history of the 12th Man. I asked my secretary to key it in for me which she did. A few days after that, my co-worker asked if I had anything on the 12th Man. Coincidentally, I did and that's how a 16-year old story found its way on the internet.

I look forward to hearing from you.

Brad

=====

BRAD MARQUARDT

Associate Director, Texas A&M Athletic Media Relations

bmarquardt@athletics.tamu.edu

Office: 979-845-5448 / Cell: 979-229-8651 / FAX: 979-845-6825

From: Michael Bynum [<mailto:mjbsports@hotmail.com>]

Sent: Wednesday, January 22, 2014 9:23 AM

To: Alan Cannon

Cc: Brad Marquardt

Subject: E. King Gill Story on TAMU Times

Hi A.C.,

We have a problem.

I was sent a web link yesterday to a story that the TAMU Times published recently on E. King Gill. See below:

http://www.aggieathletics.com//ViewArticle.dbml?DB_OEM_ID=27300&ATCLID=209380492&utm_source=tamutimes&utm_medium=email&utm_campaign=2014-01-21

This story was written by Whit Canning and it is the opening story to my new book on E. King Gill that will be published in September on honor of A&M's 75th anniversary of its 1939 national championship season. It was during A&M's glorious run in 1939 that the legend of King Gill's heroics came to life on radio shows that were discussing A&M's great season.

Whit Canning wrote this story for me in 1997. It has never been cleared for publication with anyone. And Whit did not write this story for TAMU or give them permission to publish this story.

A.C. -- you and Brad are friends of mine and I very much appreciate the assistance you and Brad have given me in the development of this book, but as you know this is a serious breach of ethics and copyright law.

I will send to you this week a PDF draft of the design of the opening pages for the 12th Man Book. It is not finished yet -- but it will be finished in February. This story appears in the book's early pages. The copyright notice for this book also appears in these early pages.

In an attempt to resolve this matter, I would like to request that this story be immediately removed from the A&M website and replaced with a bold apology for running it without permission.

Once this is done, we can discuss the next steps to move forward.

Thank you for your quick attention to this matter.

Best wishes!

Mike Bynum
mjbsports@hotmail.com

EXHIBIT A-4

From: Mike Bynum <mjbsports2@yahoo.com>
To: bmarquardt@athletics.tamu.edu; gjohnson@suddenlinkmail.com
Sent: Friday, June 18, 2010 2:08 PM
Subject: E. King Gill/12th Man Book

Hi Brad & Glen,

I have attached for your review a draft version of the 12th Man Book on E. King Gill and Texas A&M football. Please note that this is a work in progress and is not in final form yet.

Glen -- please note the photo credits have not been updated yet.

I need help in locating images for the following:

1. See Page 91 -- do you have a better version of this photo?
2. See Pages 102-105 -- this is a story from the 1976 A&M-Texas game. Do you have any better game-action photos?
3. See Pages 110-113 -- this is the 1984 A&M-Texas game. Do you have better and more crisp versions of these images?
4. See Pages 118-123. Do you have color versions of these B&M images, or better color images?
5. See Page 123 -- I need a good color image of Dat Nguyen.

Finally, Brad -- who wore jersey 43 in the 1939 Season or in the 1940 Sugar Bowl.

Thanks for your assistance!

Mike Bynum
mjbsports2@yahoo.com

EXHIBIT A-5

From: bmarquardt@athletics.tamu.edu
To: mjbsports@hotmail.com
Subject: Re: Homer Norton Hired at A&M
Date: Sun, 29 Dec 2013 00:53:41 +0000

no clue on that and no idea how I'd find out except for exploring the microfiche at the library.

Sent from my iPad

On Dec 28, 2013, at 3:49 PM, "Michael Bynum" <mjbsports@hotmail.com> wrote:

Hi Brad,

Can you tell me what day in 1934 Homer Norton was hired as the A&M football coach?

Hope you and your family are enjoying the holidays. Best wishes!

Mike Bynum
mjbsports@hotmail.com